IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928

WP(C).No. 19429 of 2003(K)

PETITIONER:

A.PRABHAKARAN, "ALIMKEL HOUSE", MANGAD,
P.O. KALLISSERY, KANNUR DISTRICT.

BY ADV. SMT.VIDHYA. A.C

RESPONDENTS:

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1. THE SECRETARY TO THE GOVERNMENT OF KERALA, INDUSTRIES (F) DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF INDUSTRIES AND COMMERCE, THIRUVANANTHAPURAM.

3. THE GENERAL MANAGER, THE DISTRICT INDUSTRIES CENTRE, KANNUR.

4. THE TAHSILDAR, TALIPARAMBA.

5. MR. K.ABDUL NASAR, MANAGING PARTNER, MARS VENEERS, RESIDING AT VALAPATTANAM AMSOM AND DESOM, P.O.VALAPATTANAM, DISTRICT KANNUR.

R1 TO 4 BY GOVERNMENT PLEADER SMT.R.BINDU
R5 BY ADV. SRI.M.SASINDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.5729/2003 IN W.P.C. NO.19429/2003

DISMISSED:

12.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF AGREEMENT DT.29.10.94 EXECUTED BETWEEN THE PETITIOENR AND THE GOVERNOR OF KERALA.

P2: TRUE COPY OF CERTIFIACATE DT.7.8.95 OF THE GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE, KANNUR.

P3: TRUE COPY OF ORDER DT.26.8.2002 OF R3.

P4: TRUE COPY OF PETITION DT.26.9.2002 OF THE PETITIONER TO R3.

P5: TRUE COPY OF REPRESENTATION DT.30.12.2002 OF THE PETITIOENR TO THE HON'BLE MINISTER FOR INDUSTRY, TRIVANDRUM.

P6: TRUE COPY OF ORDER DT.13.1.2003 OF R1.

P7: TRUE COPY OF ORDER DT.19.4.2003 OF R1.

P8: TRUE COPY OF ORDER DT.16.12.2002 OF R3.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.19429 of 2003

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Dated this the 12th day of March, 2007.

JUDGMENT

Heard counsel for the petitioner, Government Pleader and counsel for 5th respondent. The petitioner was allotted 40 cents of industrial land for starting a weaving unit. The 40 cents of land was allotted to the meet the requirement of the petitioner to start industry with 20 power looms. However, since petitioner could not utilise the full land, part of the land namely, 20 cents was resumed and allotted to 5th respondent. Counsel for the 5th respondent submitted that 5th respondent is in possession and enjoyment of the allotted land. However, petitioner has controverted this position by saying that petitioner is still in possession. The petitioner's case is that petitioner had temporary financial difficulty and has presently 10 power looms in the industry. If petitioner is not dispossessed of the property and is in a position to expand the industry within a reasonable time, I feel petitioner can be still granted another three months time to set up the industry in it's expanded form. On the other hand if 5th respondent is already given possession and is in occupation of the property, then there is no case for interference by this court as petitioner admittedly failed to utilise

the land allotted to him for the purpose for which it was given. The W.P. is disposed of with the above directions.

C.N.RAMACHANDRAN NAIR
Judge

pms